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## IN THE UNITED STATES DISTRICT COURT

10 FOR THE DISTRICT OF GUAM

11 UNITED STATES OF AMERICA, ) CRIMINAL CASE NO. 06-00032  
12 Plaintiff, )  
13 ) GOVERNMENT'S MOTION  
14 vs. ) FOR JOINDER OF DEFENDANTS  
15 ROBERT DUENAS QUIDACHAY, ) FOR JOINT TRIAL; MEMORANDUM  
16 ) OF POINTS AND AUTHORITIES  
17 Defendant. )  
18

19 COMES NOW the United States, and respectfully requests and moves this Honorable  
20 Court for a Joinder of Defendants pursuant to Federal Rules of Criminal Procedure Rule 8(b) and  
21 Rule 13.

### 22 MEMORANDUM OF POINTS AND AUTHORITIES

23 The Government seeks the joinder of defendant Robert Duenas Quidachay's case  
24 (Criminal Case Number 06-00032) with defendants Judith A.F. Mateo and Jacob R.F. Mateo  
25 (Criminal Case Number 06-00033) because they participated in the same act or transaction or  
26 same series of acts or transactions constituting the offenses.

27 The Federal Rules of Criminal Procedure Rule 8(b) permits joinder of offenses or  
28 defendants. Rule 8(b) states as follows:

**FILED**

DISTRICT COURT OF GUAM

SEP 18 2006 Hba

MARY L.M. MORAN  
CLERK OF COURT

1           **Joinder of Defendants.** The indictment or information may charge 2 or more defendants  
2 if they are alleged to have participated in the same act or transaction, or in the same series  
3 of acts or transactions, constituting an offense or offenses. The defendants may be  
4 charged in one or more counts together or separately. All defendants need not be  
5 charged in each count.

6           Rule 13 similarly permits joint trials of separate cases. Rule 13 states as follows:

7           (b) **Joint Trial of Separate Cases.** The court may order that separate cases be tried  
8 together as though brought in a single indictment or information if all offenses and all  
9 defendants could have been joined in a single indictment or information.

10          In Zafiro v. U.S., 506 U.S. 534, 538, 113 S. Ct. 933 (1993), the United States Supreme  
11 Court noted that “‘Rule 8(b) states that ‘two or more defendants may be charged in the same  
12 indictment or information if they are alleged to have participated in the same act or transaction or  
13 the same series of acts or transactions constituting an offense or offenses.’ There is a preference  
14 in the federal system for joint trials of defendants who are indicted together. Joint trials ‘play a  
15 vital role in the criminal justice system.’ Richardson v. Marsh, 481 U.S. 200, 209, 107 S. Ct.  
16 1702, 1708, 95 L. Ed. 176 (1987). They promote efficiency and ‘serve the interests of justice by  
17 avoiding the scandal and inequality of inconsistent verdicts.’ Id., at 210, 107 S. Ct., at 1708. For  
18 these reasons, we repeatedly have approved of joint trials. See ibid., Opper v. United States, 348  
19 U.S. 84, 95, 75 S. Ct. 158, 165, 99 L. Ed. 101 (1954); United States v. Marchant, 12 Wheat. 480,  
20 6 L. Ed. 700 (1827); cf. 1 C. Wright, Federal Practice and Procedure §223 (2d ed. 1982).”

21          In applying this standard, we look to the phrase “same series of acts or transactions  
22 constituting an offense or offenses.” The term “transaction” is interpreted flexibly, and whether a  
23 “series” exists depends on whether there is a “logical relationship” between the transactions.  
24 U.S. v. Vasquez-Velasco, 15 F.3d 833, 844 (9<sup>th</sup> Cir., 1994). “A logical relationship is typically  
25 shown “by the existence of a common plan, scheme, or conspiracy.” U.S. v. Vasquez-Velasco,  
26 15 F.3d 833, 844 citing Felix-Gutierrez, 940 F.2d at 1208; Ford, 632 F.2d at 1372. Rule 8(b) is  
27 construed broadly in favor of initial joinder. Ford, 632 F.2d at 1373. The goal of “maximum  
28 trial convenience consistent with minimum prejudice” is best served by permitting initial joinder

1 of charges against multiple defendants whenever the common activity constitutes a substantial  
2 portion of the proof of the joined charges.” Ford, 632 F.2d at 1372 (quoting United States v.  
3 Roselli, 432 F.2d 879, 899 (9<sup>th</sup> Cir., 1970), cert. denied, 401 U.S. 924, 91 S. Ct. 883, 27 L. Ed. 2d  
4 828 (1971) and 8 Moore’s Federal Practice 8.06[2] at 8-36.

5 Joinder of defendant Robert Duenas Quidachay’s indictment with the Mateo defendants  
6 in Criminal Case Number 06-00033 would meet the goal of attaining maximum trial  
7 convenience. There is a logical relationship between defendant Robert Duenas Quidachay’s case  
8 and the Mateos’ case. Both defendants Robert Duenas Quidachay and Judith A.F. Mateo were in  
9 one vehicle, a Mazda RX8 at 2:30 a.m. on the highways of Guam on August 17, 2006.  
10 Defendant Robert Duenas Quidachay, the driver of the vehicle and Judith A.F. Mateo were  
11 pulled over for a traffic violation. Defendant Quidachay was patted down and Guam Police  
12 Officers located methamphetamine in his pocket. Defendant Mateo was also patted down and  
13 methamphetamine was located in her pocket. Methamphetamine packaged in straws, drug  
14 scales, and \$6,004.00 in U.S. Currency were found in the car. Defendant Quidachay then  
15 admitted that he was with Judith A.F. Mateo during the sale of methamphetamine. Subsequent  
16 to the traffic pullover, defendant Judith A.F. Mateo’s home was searched. Defendant Jacob  
17 Mateo arrived at the residence and was in possession of methamphetamine. Defendant Jacob  
18 Mateo admitted that Judith Mateo was trafficking in drugs.

19 There is a logical relationship between the occurrences. “Such a logical relationship may  
20 be shown by the existence of a common plan, scheme, or conspiracy.” United States v. Ford, 632  
21 F.2d 1354, 1371-2 (9<sup>th</sup> Cir., 1980). A logical relationship may also be shown if the “common  
22 activity constitutes a substantial portion of the proof of the joined charges.” Vasquez-Velasco,  
23 15 F.3d at 844. The common activity between Robert Duenas Quidachay and the Mateo  
24 defendants constitutes a substantial portion of the proof of the charges. The facts to be proven  
25 against Robert Duenas Quidachay are essentially the same as those to be proven against Judith  
26 A.F. Mateo, the charges involve overlapping evidence. There are meaningful connections  
27

1 between the counts of conspiracy and each defendant. This supports joinder of the charges  
2 pursuant to Rule 8(b) of the Rules of Criminal Procedure. Defendants in these cases would  
3 suffer little to no prejudice. Indeed, limiting instructions can be provided which suffice to cure  
4 any risk of substantial prejudice. "We have repeatedly held that a district court's careful and  
5 frequent limiting instructions to the jury, explaining how and against whom certain evidence may  
6 be considered, can reduce or eliminate any possibility of prejudice arising from a joint trial."  
7 Zafiro v. United States, 506 U.S. 534, 539, 113 S. Ct. 933, 122 L. Ed. 2d 317 (1993).

## **CONCLUSION**

9 The joinder of the trial for defendant Robert Duenas Quidachay with the Mateo  
10 defendants will promote the interests of judicial economy, will promote efficiency, and will  
11 avoid multiplicity of trials. The facts to be proven against these defendants are overlapping  
12 facts and there is a common activity of conspiracy to distribute methamphetamine. The  
13 objectives of attaining judicial economy and avoiding multiplicity of trials can be achieved  
14 without substantial prejudice to the rights of each of the defendants.

15 | Respectfully submitted this 8th day of September, 2006.

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By:

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